

JUDGE SULLIVAN

08 CV 4598

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FREDERICK RANDOLPH,

Plaintiff,

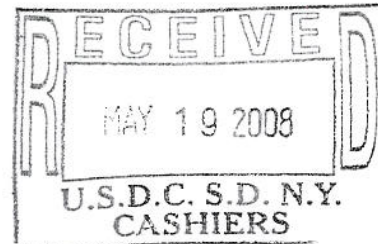
vs.

NEW TOP, INC., LUCASINI CLASSICS,
INC. and DON JONATHAN CRAVATS,
INC.

Defendants.

Civil Action No.:

**COMPLAINT FOR PATENT
INFRINGEMENT AND DEMAND
FOR JURY TRIAL**



Plaintiff Frederick Randolph, by his undersigned counsel, brings this action against defendants, New Top, Inc. ("New Top"), Lucasini Classics, Inc. ("Lucasini") and Don Jonathan Cravats, Inc. ("Don Jonathan"), and alleges as follows:

PARTIES

1. Plaintiff Frederick Randolph is a person residing in New Jersey.
2. Defendant New Top is a New York corporation with its principal place of business at 890A Sixth Avenue, New York, New York .
3. Defendant Lucasini is a California corporation with its principal place of business at 6480 Corvette Street, Commerce, California.
4. Defendant Don Jonathan is a Georgia corporation with its principal place of business at 2185 Blackheath Trace, Alpharetta Georgia.

JURISDICTION AND VENUE

5. The claim for patent infringement in this action arises under 35 U.S.C. § 271.
6. Subject matter jurisdiction exists pursuant to 28 U.S.C. §§ 1331 & 1338(a).

7. This Court has personal jurisdiction over each of the defendants pursuant to New York Civil Practice Law and Rules § 302(a) because each of them transacts business within the State of New York.

8. Venue exists in this judicial district pursuant to 28 U.S.C. §§ 1391(c).

FACTS

The Patents-In-Suit

9. Mr. Randolph owns all right, title, and interest in and to United States Design Patent Nos. D432,289 (the '289 patent) and D436,429 ("the '429 patent"), both entitled Shirt Collar. The '289 patent was duly and legally issued by the United States Patent and Trademark Office on October 24, 2000. The '429 patent was duly and legally issued by the United States Patent and Trademark Office on January 23, 2001. Copies of the '289 and '429 patents are Exhibits A and B hereto, respectively.

The Accused Products

10. Defendants manufacture, use, sell, offer for sale or import one or more shirts featuring, among other infringing characteristics, the squared or "box" collar described in the '289 and '429 patents.

11. Defendant Lucasini is currently known to sell or have sold infringing shirts under the Lucasini and Stacy Adams brand names.

12. Defendant New Top is currently known to sell or have sold infringing shirts under the Daniel Ellissa brand name.

13. Defendant Don Jonathan is currently known to sell or have sold infringing shirts under the Bruno Conte brand name.

14. The infringing shirts are manufactured, used, offered for sale, sold and/or imported throughout the United States by the defendants.

CAUSE OF ACTION

(INFRINGEMENT OF THE '289 AND '429 PATENTS)

15. Plaintiff repeats the allegations in paragraphs 1 through 15 as if fully set forth herein.

16. The defendants are liable under 35 U.S.C. 271 because they have and continue to infringe directly, indirectly, contributorily, or by inducement, the claims of the '289 and '429 patents by making, using, offering for sell, selling, or importing infringing shirts.

17. The Defendants' acts of infringement will continue unless enjoined by this Court.

18. The Defendants' acts of infringement have caused and will continue to cause plaintiff substantial and irreparable injury for which plaintiff is entitled to receive injunctive relief and damages adequate to compensate the plaintiff for such infringement.

19. Upon information and belief, the defendants have been on notice of the '289 and '429 patents.

20. Despite knowledge of the '289 and '429 patents, the defendants have continued to engage in their infringing activity.

21. The defendants' acts of infringement have been willful and deliberate rendering this case "exceptional" within the meaning of 35 U.S.C. § 285.

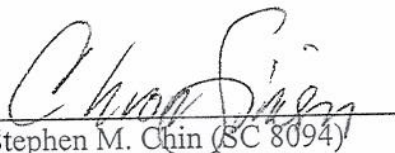
WHEREFORE, Plaintiff requests this Court to enter judgment in its favor and against each defendant awarding it the following relief:

1. Permanently enjoining defendants, and their respective officers, agents, servants, employees, and any others acting in concert with defendants from infringing any of the Patents in Suit;
2. Awarding plaintiff damages resulting from the defendants' acts of infringement in an amount to be determined at trial;
3. Awarding Plaintiff treble damages pursuant to 35 U.S.C. § 284 as a result of the defendants' willful acts of infringement;
4. Declaring this case exceptional pursuant to 35 U.S.C. § 285 and awarding Plaintiff interest, costs, expenses and attorneys' fees; and
5. Granting Plaintiff such other relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

A JURY TRIAL IS DEMANDED ON ALL ISSUES SO TRIABLE

Dated: New York, New York
May 15, 2008


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Attorneys for Plaintiff

EXHIBIT A



US00D432289S

United States Patent [19]

Randolph

[11] Patent Number: Des. 432,289

[45] Date of Patent: ** Oct. 24, 2000

[54] SHIRT COLLAR

[76] Inventor: Frederick Randolph, 1910 Sunnyview Oval, Keasbey, N.J. 08832

[**] Term: 14 Years

[21] Appl. No.: 29/119,070

[22] Filed: Feb. 23, 2000

[51] LOC (7) Cl. 02-01

[52] U.S. Cl. D2/602

[58] Field of Search D2/600, 602, 605,
D2/853, 854, 823; 2/127, 128, 129, 130,
131, 137, 88

[56] References Cited

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| | | | |
|------------|---------|---------------|--------|
| D. 110,415 | 7/1938 | Glidden | D2/602 |
| D. 421,328 | 3/2000 | Glennie | D2/602 |
| 939,204 | 11/1909 | Bevington . | |
| 1,287,455 | 12/1918 | Schevenell . | |
| 1,814,818 | 7/1931 | Bard | 2/131 |
| 2,585,690 | 2/1952 | Schafer | D2/602 |

| | | | |
|-----------|---------|-------------|-------|
| 3,041,626 | 7/1962 | Light | 2/131 |
| 3,106,719 | 10/1963 | Rosenfeld . | |
| 3,203,004 | 8/1965 | Gast | 2/128 |

Primary Examiner—Paula A. Mortimer

Attorney, Agent, or Firm—Goldstein & Canino

[57] CLAIM

The ornamental design for a shirt collar, as shown and described.

DESCRIPTION

FIG. 1 is a perspective view of a shirt collar in full lines with a shirt shown in broken lines representing environmental association matter being for illustrative purposes only and forming no part of the claimed invention.

FIG. 2 is a front elevational view of the shirt collar;

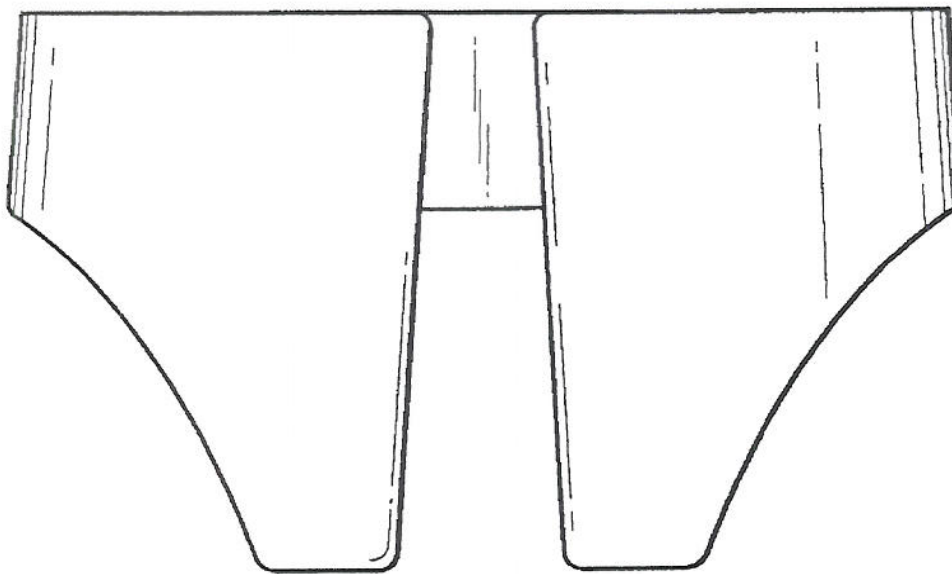
FIG. 3 is a rear elevational view thereof;

FIG. 4 is a top plan view thereof;

FIG. 5 is a bottom plan view of the shirt collar; and,

FIG. 6 is a left side elevational view thereof, the right side view being a mirror image of the right side view.

1 Claim, 2 Drawing Sheets



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Des. 432,289

FIG. 5

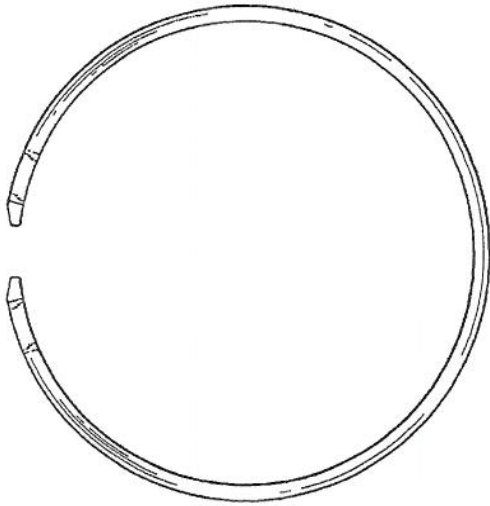


FIG. 6

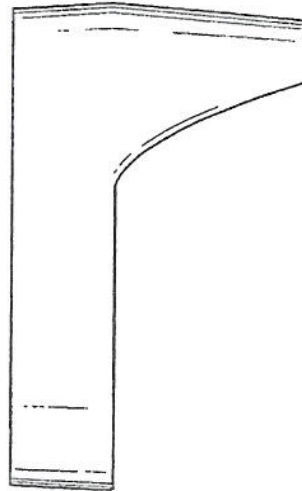
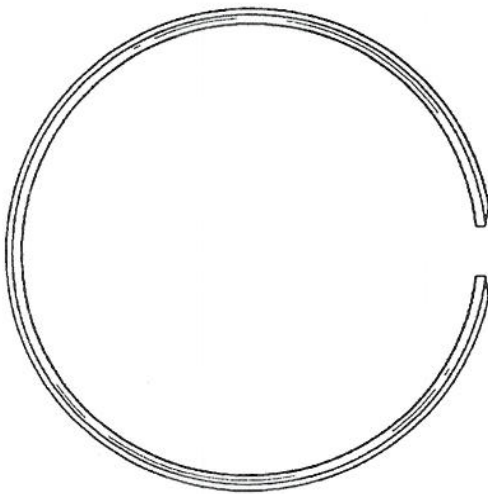


FIG. 4



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Des. 432,289

FIG. 1

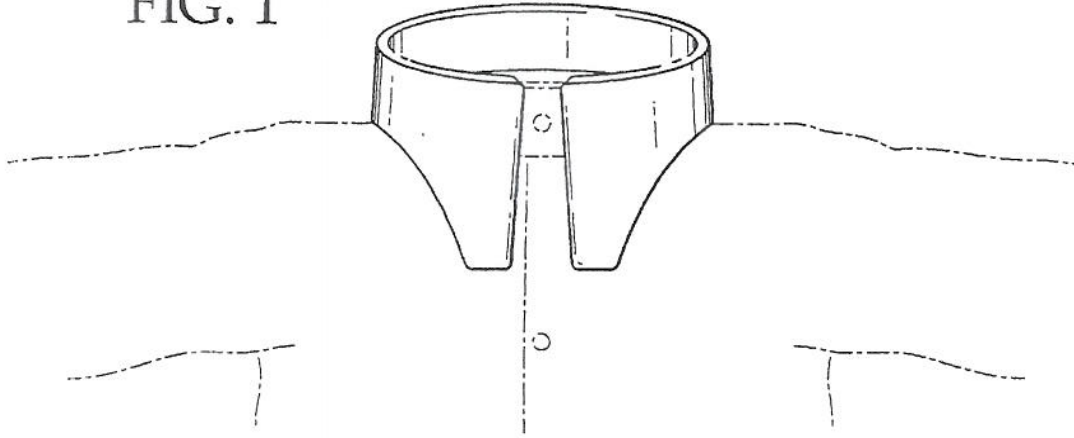


FIG. 2

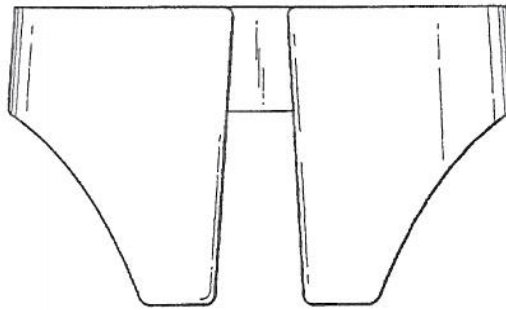


FIG. 3

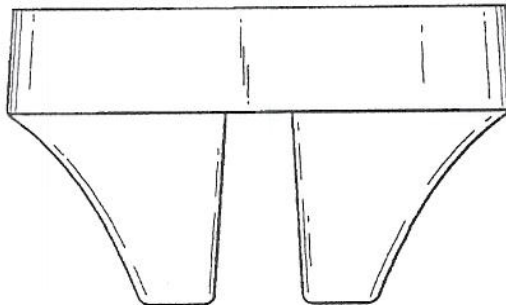


EXHIBIT B



US00D436429S

(12) **United States Design Patent** (10) Patent No.: **US D436,429 S**
 Randolph (45) Date of Patent: ** *Jan. 23, 2001

(54) **SHIRT COLLAR**

(76) Inventor: **Frederick Randolph**, 1910 Sunnyview
 Oval, Keasbey, NJ (US) 08832

(*) Notice: This patent is subject to a terminal disclaimer.

(**) Term: **14 Years**

(21) Appl. No.: **29/119,071**

(22) Filed: **Feb. 23, 2000**

(51) LOC (7) Cl. **02-05**

(52) U.S. Cl. **D2/602**

(58) Field of Search D2/600, 602, 605,
 D2/853, 854, 823; 2/127, 128, 129, 130,
 131, 137, 88

(56) **References Cited**

U.S. PATENT DOCUMENTS

D. 110,415 * 7/1938 Glidden D2/602
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 1,814,818 * 7/1931 Bard 2/131

2,585,690 * 2/1952 Schafer D2/602
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 3,106,719 10/1963 Rosenfeld .
 3,203,004 * 8/1965 Gast 2/128

* cited by examiner

Primary Examiner—Paula A. Mortimer

(74) *Attorney, Agent, or Firm*—Goldstein & Canino

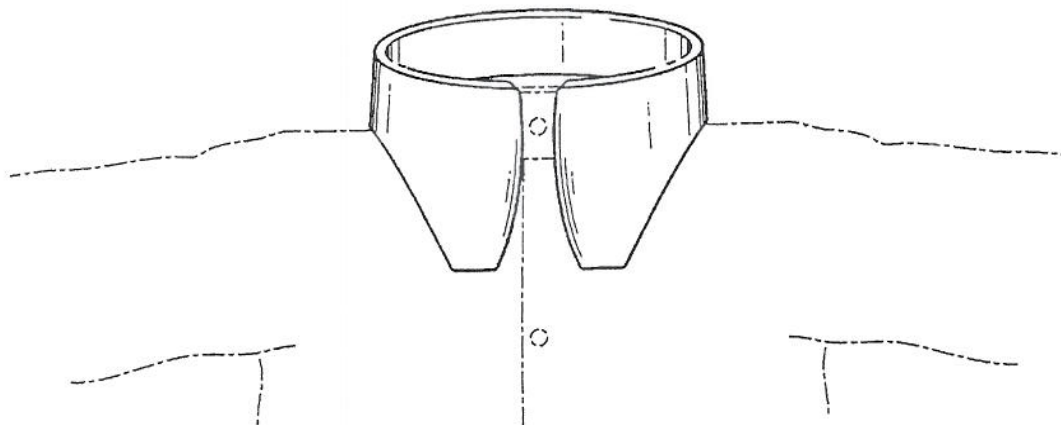
(57) **CLAIM**

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DESCRIPTION

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 FIG. 2 is a front elevational view of the shirt collar;
 FIG. 3 is a rear elevational view thereof;
 FIG. 4 is a top plan view thereof;
 FIG. 5 is a bottom plan view of the shirt collar; and,
 FIG. 6 is a left side elevational view thereof, the right side view being a mirror image of the right side view.

1 Claim, 2 Drawing Sheets



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US D436,429 S

FIG. 1

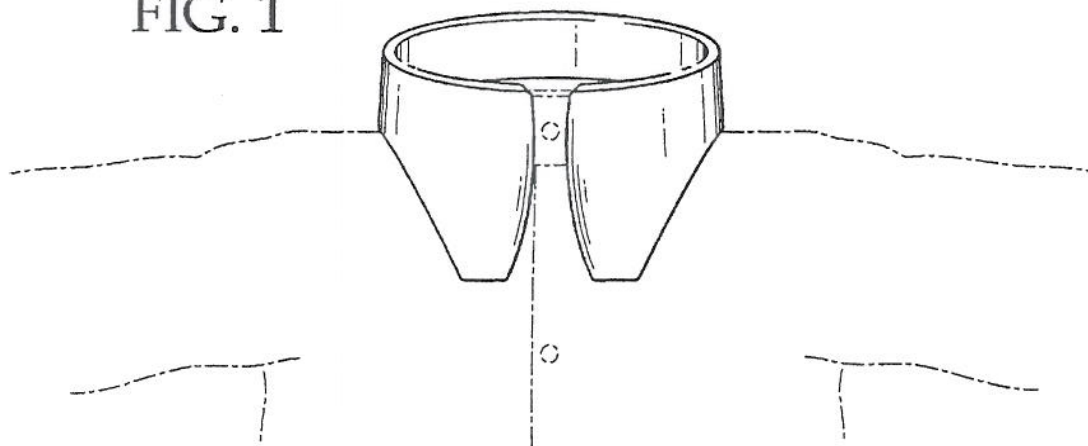


FIG. 2

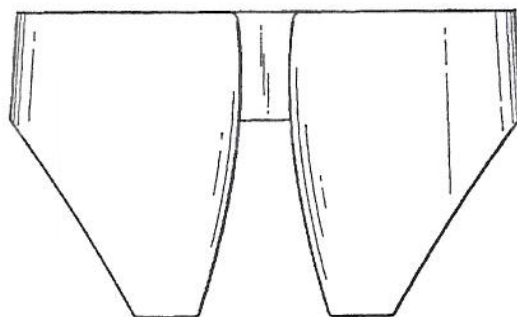
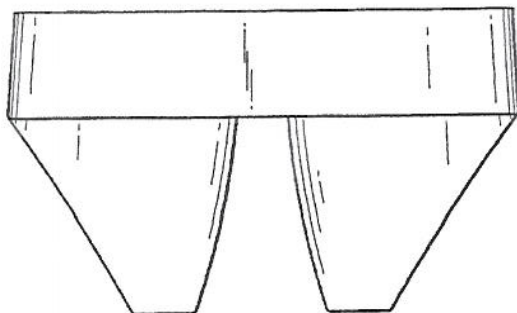


FIG. 3



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FIG. 5

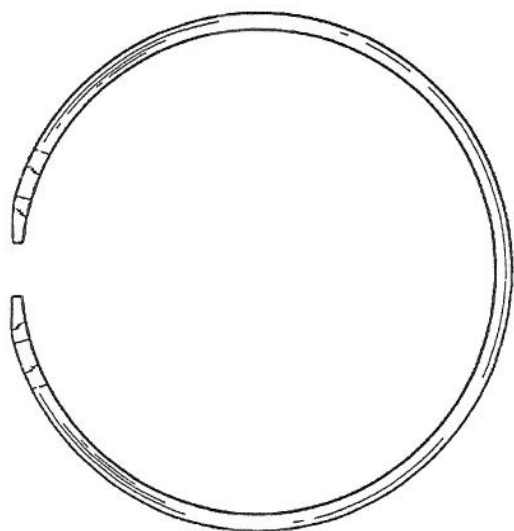


FIG. 6

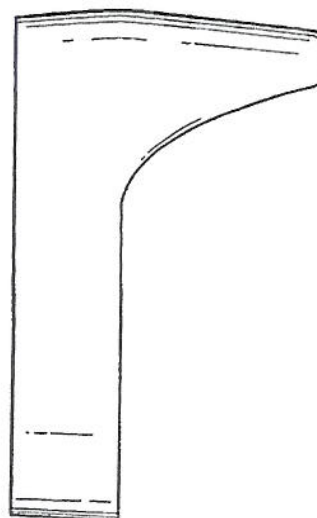


FIG. 4

